

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 ANTHONY SOTO FERNANDEZ,  
12 Plaintiff,  
13 v.  
14 CRUZ, *et al.*,  
15 Defendants.  
16

No. 1:23-cv-0855 JLT BAM (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS REGARDING  
DISMISSAL OF CERTAIN CLAIMS AND  
DEFENDANTS

(Doc. 10)

17 Anthony Soto Fernandez is a state prisoner proceeding *pro se* and *in forma pauperis* in  
18 this civil rights action pursuant to 42 U.S.C. § 1983. The assigned magistrate judge found  
19 Plaintiff stated cognizable claims for excessive force in violation of the Eighth Amendment  
20 against defendants Cruz, Charles, Furlong, Chavez, and Hernandez; and deliberate indifference to  
21 a serious medical need in violation of the Eighth Amendment against Cruz, Furlong, and Charles.  
22 The magistrate judge found Plaintiff's other claims were not cognizable, and recommended all  
23 the non-cognizable claims and defendant Rodriguez be dismissed. (Doc. 10.)

24 The Court served the Findings and Recommendations on Plaintiff and notified him that  
25 any objections were to be filed within 14 days after service. (Doc. 10 at 12.) Plaintiff was also  
26 informed "the failure to file objections within the specified time may result in the waiver of the  
27 'right to challenge the magistrate's factual findings' on appeal." (*Id.*, citing *Wilkerson v.*  
28 *Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014), *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir.

1991).) No objections have been filed, and the deadline to do so has expired.

According to 28 U.S.C. § 636(b)(1)(C), this Court conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court concludes the Findings and Recommendations to be supported by the record and by proper analysis. Thus, the Court

**ORDERS:**

1. The Findings and Recommendations issued on August 9, 2023 (Doc. 10) are **ADOPTED** in full.
2. This action shall proceed on the following claims in the First Amended Complaint, filed August 4, 2023, (Doc. 8):
  - a. Excessive force in violation of the Eighth Amendment against Defendants Cruz, Charles, Furlong, Chavez, and Hernandez; and
  - b. Deliberate indifference to a serious medical need in violation of the Eighth Amendment against Defendants Cruz, Charles, and Furlong.
3. All other claims and defendant Rodriguez are **DISMISSED** from this action.
4. This action is referred to the magistrate judge for further proceedings

IT IS SO ORDERED.

Dated: September 19, 2023

  
UNITED STATES DISTRICT JUDGE